

AMENDED IN ASSEMBLY MARCH 31, 2005

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL**No. 1303**

Introduced by Assembly Member Daucher

February 22, 2005

An act to amend Sections 41329.52, 41329.55, 41329.56, and 41329.57 of the Education Code, and to add Section 63049.68 to the Government Code, relating to school finance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1303, as amended, Daucher. School finance: emergency apportionments and lease financing.

Existing law authorizes a school district to receive a 2-part financing designed to provide an advance of apportionments owed to the school district from the State School Fund and requires the initial emergency apportionment to be an interim loan from the General Fund to the school district. Existing law requires the school district to enter into a lease financing with the California Infrastructure and Economic Development Bank (the bank) for the purpose of financing the emergency apportionment and requires the term of the lease not to exceed 20 years.

This bill would require the term of the lease to be extended for a period not to exceed 10 years if at the end of the lease term any rent payable is not fully paid or if the rent payable has been abated.

Existing law requires notification *by the bank* to the Controller of the lease financing, along with a schedule of rent payments to become due to the bank from the school district and identifying the bond

trustee. Existing law requires the Controller to make the apportionment to the bond trustee of those amounts on the dates shown on the schedule. Existing law provides that the bank may further authorize that the apportionments be used to pay or reimburse the provider of any credit enhancement of bonds issued by the bank.

This bill would also authorize those apportionments to be used to pay or reimburse the provider for other ongoing or periodic ancillary costs of the bond financing. *The bill would require the bank to also provide notification of the lease financing to the school district.*

Existing law requires the bank to issue separate bonds for the West Contra Costa Unified School District and the Oakland Unified School District for lease financing and requires those school districts to use the proceeds to repay the existing apportionments. Existing law requires the terms of those leases not to exceed 20 years.

This bill would require the terms of the leases to be extended for a period not to exceed 10 years if at the end of the lease terms any rent payable is not fully paid or if the rent payable has been abated.

Existing law requires the Controller to annually transfer from Section A of the State School Fund the amount of funds necessary to pay certain warrants so that the effective cost of the lease financing provided to specified school districts is equal to the cost of the emergency loan made to each district at a certain annual rate.

This bill would instead require the Controller to make that transfer ~~periodically rather than annually pursuant to a schedule provided to the Controller by the bank~~, would provide that the effective cost of the lease financing is equal to the cost of the original emergency loan, and would specify the applicable interest rate for each district, as provided.

Existing law requires the executive director of the bank to annually notify the Controller of certain amounts relating to the lease financing and requires the Controller to annually issue a warrant to certain school districts in that amount.

This bill would instead require ~~both the notification and the issuance of the warrant to be done periodically rather than annually the executive director or chair of the bank to periodically provide a schedule to the Controller and each school district of the certain amounts relating to the lease financing and require the Controller to issue warrants to each school district pursuant to the schedule.~~

Existing law provides that a financing of emergency apportionments upon the request of a school district, as provided, is deemed to be in the public interest and eligible for financing by the bank. Existing law

authorizes the bank to issue revenue bonds and provide the proceeds to a school district pursuant to a lease agreement, as provided.

This bill would declare that the state pledges that it will not alter a certain directive and will not amend or repeal certain provisions of existing law in any manner that would materially impair the security or other interests of the bondholders.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 41329.52 of the Education Code is
 2 amended to read:
 3 41329.52. (a) A school district may receive a two-part
 4 financing designed to provide an advance of apportionments
 5 owed to the district from the State School Fund.
 6 (b) The initial emergency apportionment shall be an interim
 7 loan from the General Fund to the school district. General Fund
 8 money shall not be advanced to a school district until that district
 9 agrees to obtain a lease financing as described in subdivision (c)
 10 and the bank adopts a reimbursement resolution governing the
 11 lease financing. The interim loan shall be repaid in full, with
 12 interest, from the proceeds of the lease financing pursuant to
 13 subdivision (c) within one year of the date the district receives
 14 the initial emergency apportionment disbursement. The interest
 15 rate on the interim loan shall be the rate earned by moneys in the
 16 Pooled Money Investment Account as of the date of the initial
 17 disbursement of emergency apportionments to the school district.
 18 (c) The school district shall enter into a lease financing with
 19 the bank for the purpose of financing the emergency
 20 apportionment, including a repayment to the General Fund of the
 21 amount advanced pursuant to subdivision (b). In addition to the
 22 emergency apportionment, the lease financing may include funds
 23 necessary for reserves, capitalized interest, credit enhancements
 24 and costs of issuance. The bank shall issue bonds for that purpose
 25 pursuant to the powers granted pursuant to the Bergeson-Peace
 26 Infrastructure and Economic Development Bank Act as set forth
 27 in Division 1 (commencing with Section 63000) of Part 6.7 of

1 the Government Code. The term of the lease shall not exceed 20
2 years, except that if at the end of the lease term any rent payable
3 is not fully paid, or if the rent payable has been abated, the term
4 of the lease shall be extended for a period not to exceed 10 years.

5 SEC. 2. Section 41329.55 of the Education Code is amended
6 to read:

7 41329.55. (a) Simultaneous with the execution of the lease
8 financing authorized pursuant to Section 41329.52, the bank shall
9 provide to the Controller *and the school district* a notification of
10 its lease financing. The notice shall include a schedule of rent
11 payments to become due to the bank from the school district and
12 identifying the bond trustee. The Controller shall make the
13 apportionment to the bond trustee of those amounts on the dates
14 shown on the schedule. The bank may further authorize that the
15 apportionments be used to pay or reimburse the provider of any
16 credit enhancement of bonds and other ongoing or periodic
17 ancillary costs of the bond financing issued by the bank in
18 connection with this article. The Controller shall make the
19 apportionment only from moneys in *Section A* of the State School
20 Fund designated for apportionment to the district and any
21 apportionment authorized pursuant to this subdivision shall
22 constitute a lien senior to any other apportionment or payment of
23 State School Fund moneys to or for that district not made
24 pursuant to this subdivision.

25 (b) The amount apportioned for a school district pursuant to
26 this section is an allocation to the district for purposes of
27 subdivision (b) of Section 8 of Article XVI of the California
28 Constitution. For purposes of computing revenue limits pursuant
29 to Section 42238 for any school district, the revenue limit for any
30 fiscal year in which funds are apportioned for the district
31 pursuant to this section shall include any amounts apportioned by
32 the Controller pursuant to subdivision (a) as well as Section
33 41329.57.

34 (c) No party, including the school district or any of its
35 creditors, shall have any claim to the money apportioned or to be
36 apportioned to the bond trustee by the Controller pursuant to this
37 section.

38 SEC. 3. Section 41329.56 of the Education Code is amended
39 to read:

1 41329.56. (a) Chapter 57 of the Statutes of 1993
2 consolidated several previous emergency apportionments and a
3 loan to the West Contra Costa Unified School District and
4 specified the repayment terms of that apportionment. Chapter 14
5 of the Statutes of 2003 authorized an emergency apportionment
6 to the Oakland Unified School District and specified the
7 repayment terms of that apportionment. Collectively these are
8 referred to in this section as “existing apportionments.”

9 (b) Promptly after August 23, 2004, the bank shall issue
10 separate bonds for the West Contra Costa Unified School District
11 and the Oakland Unified School District for lease financing
12 pursuant to Section 41329.52. The school districts shall use the
13 proceeds to repay the existing apportionments. The terms of the
14 leases shall not exceed 20 years, except that if at the end of the
15 lease term any rent payable is not fully paid, or if the rent
16 payable has been abated, the term of the lease shall be extended
17 for a period not to exceed 10 years.

18 SEC. 4. Section 41329.57 of the Education Code is amended
19 to read:

20 41329.57. (a) (1) ~~The Controller shall periodically~~ Pursuant
21 ~~to a schedule provided to the Controller by the bank, the~~
22 ~~Controller shall~~ transfer from Section A of the State School Fund
23 the amount of funds necessary to pay the warrants issued
24 pursuant to paragraph (2) so that the effective cost of the lease
25 financing provided to the Oakland Unified School District, the
26 Vallejo City Unified School District, and the West Contra Costa
27 Unified School District pursuant to this article shall be equal to
28 the cost of the original General Fund emergency loan made to
29 each district.

30 (A) For the purposes of determining the cost of the original
31 emergency loan for the West Contra Costa Unified School
32 District, the original interest rate is the rate established pursuant
33 to Section 41474 of 1.532 percent.

34 (B) For the purposes of determining the cost of the original
35 emergency loan for the Oakland Unified School District, the
36 original interest rate is 1.778 percent. This rate shall also apply to
37 any disbursements of the loan pursuant to Chapter 14 of the
38 Statutes of 2003 that are subsequent to August 23, 2004.

39 (C) For the purposes of determining the cost of the original
40 emergency loan for the Vallejo City Unified School District, the

1 original interest rate is 1.5 percent. This rate shall also apply to
2 any disbursements of the loan pursuant to Chapter 53 of the
3 Statutes of 2004 that are subsequent to August 23, 2004.

4 (2) The executive director or chair of the bank shall
5 ~~periodically notify the Controller~~ *provide a schedule to the*
6 *Controller and each school district* of the actual amount of the
7 difference between the cost of the lease financing compared to
8 the cost of the original emergency loan for each district for each
9 year and the Controller shall ~~periodically issue a warrant to each~~
10 ~~school district in that amount~~ *issue warrants to each school*
11 *district pursuant to the schedule*. Payments to a district shall
12 occur only during the term of the loan for that district and shall
13 be made no sooner than the corresponding payments are made to
14 the bond trustee under the lease financing for that district.

15 (3) For purposes of making the computations required by
16 Section 8 of Article XVI of the California Constitution, the
17 warrants issued pursuant to paragraph (2) are “General Fund
18 revenues appropriated to school districts,” as defined in
19 subdivision (c) of Section 41202 for the fiscal years in which the
20 warrants are issued and included within the “total allocations to
21 school districts and community college districts from General
22 Fund proceeds of taxes appropriated pursuant to Article XIII B”
23 as defined in subdivision (e) of Section 41202, for the fiscal
24 years in which the warrants are issued.

25 (b) It is the intent of the Legislature that the financing cost
26 subsidies funded in this section not be deemed precedent nor in
27 conflict with Section 41329.53, as these districts requested loans
28 prior to the enactment of this article.

29 SEC. 5. Section 63049.68 is added to the Government Code,
30 to read:

31 63049.68. The State of California pledges that (a) the state
32 will not alter the directive to the Controller to make
33 apportionments to the bond trustee of moneys in the State School
34 Fund from that set forth in Section 41329.55 of the Education
35 Code, and (b) the state will not amend or repeal subdivision (f) of
36 Section 63049.67, in each case in any manner that would
37 materially impair the security or other interests of holders of any
38 bonds issued pursuant to this article. The bank is authorized to
39 include this pledge in the bonds, or other documents entered into

1 in connection with the bonds, as a covenant for the benefit of the
2 bondholders.

3 SEC. 6. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety
5 within the meaning of Article IV of the Constitution and shall go
6 into immediate effect. The facts constituting the necessity are:

7 In order to address the fiscal emergencies facing school
8 districts that have received or that are requesting an emergency
9 apportionment from the state, it is necessary that this act take
10 effect immediately.